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Letter dated 27 October 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 18 July 2003 (S/2003/744).

The Counter-Terrorism Committee has received the attached third report from Bahrain submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 27 October 2003 from the Permanent Representative of Bahrain to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

With reference to your letter dated 7 July 2003, I have the honour to forward further information (see enclosure) in response to the questions and comments of experts of the Counter-Terrorism Committee regarding the report submitted by the Kingdom of Bahrain on 19 February 2003.

I hope that the information enclosed covers all questions raised by the Committee.

(*Signed*) Tawfeeq Ahmed **Almansoor**
Ambassador
Permanent Representative

Enclosure

[Original: Arabic]

Report of Bahrain containing additional information on matters contained in the Kingdom's supplementary report submitted to the Counter-Terrorism Committee on 19 February 2003 under Security Council resolution 1373 (2001), prepared in reply to the letter from the Chairman of the Committee dated 7 July 2003

1.2 The CTC thanks the Kingdom of Bahrain for providing the relevant provisions of the Bahrain Monetary Agency (BMA) circulars, the Decree-Law 4/2001 and the other relevant annexes. The CTC notes from the supplementary report (paragraph 1.1 at page 3) that the circulars issued by the BMA have the force of law. Could the Kingdom of Bahrain provide the CTC with the relevant penalties under the provisions of the BMA for violating the obligations introduced by those circulars?

The principal legal penalty provided by the Bahrain Monetary Agency (BMA) for failure to comply with the Agency's circulars is withdrawal of the violating establishment's licence. The provision of financial services in Bahrain by any establishment or individual without a license constitutes a criminal violation (punishable by imprisonment and/or a fine). For this reason, the prospect of withdrawal of the licence is often sufficient, practically speaking, to enable BMA to impose lighter penalties for which the law contains no provision.

Furthermore, the Bahrain Monetary Agency Act permits the Agency to do the following, after conducting an investigation:

(a) To compel the bank to "proceed immediately to take such measure as the Agency deems necessary ...";

(b) To designate a person to offer advice (to the licensee) on how to improve the situation;

(c) To suspend the licence (and consequently the activities) of the licensee.

1.3 Please describe the legal and other measures available to comply with the requirements of subparagraph 1 (b) of the resolution. Please explain the legal measures available in the Kingdom of Bahrain, as required by this subparagraph, to criminalize the collection of funds within the Kingdom of Bahrain by its nationals and entities or within its territory by others for the purposes of terrorism either inside or outside the Kingdom of Bahrain. For an act to constitute an offence it is not necessary that the funds be actually used to carry out a terrorist offence (please see article 2, paragraph 3, of the International Convention for the Suppression of the Financing of Terrorism).

Articles 137 and 154 of the Penal Code promulgated by Decree-Law No. 15/1976 prohibit the collection of funds for or the furnishing of assistance of any kind to anyone who commits criminal acts, which naturally include terrorist acts, and provide penalties for anyone so doing that range up to life imprisonment or

death. The said criminalization and penalties apply even to the mere attempt to commit crimes; consequently it is not necessary for the crime to be consummated, as provided in articles 36 and 37 of the Penal Code. Thus the satisfaction of the requirement of subparagraph 1 (b) of resolution 1373 (2001) is ensured.

1.4 Could the Kingdom of Bahrain please describe the relevant provisions in the Penal Code of 1976 and in the Code of Criminal Procedure of 2002, referred to in the supplementary report (subparagraph 1.3 at page 3), which allow for the freezing of other economic resources or other related services when used to support terrorist acts (subparagraph 1 (c) of the resolution).

Reference is made here to the provisions of part III "Preservation of things connected with the crime" and part IV "Disposal of objects seized" of chapter 2 "Investigation by the Office of the Public Prosecutor" of book one of the Code of Criminal Procedure, articles 98 to 113.

Article 98 of the Code of Criminal Procedure states that in cases in which the investigation yields sufficient proof of the substantial nature of the accusation in any of the crimes provided for in chapter 2 of the special section of the Penal Code, other crimes committed against property owned by the State, public agencies or institutions, units belonging to them or other public entities or in crimes for which the law requires the court to order, *motu proprio*, the return of the amount or the value of the things to which the crime related or the compensation of the aggrieved party, if the Office of the Public Prosecutor considers that measures are needed to preserve the property of the accused, including his being barred from disposing of or managing such property, it shall bring the matter before the High Criminal Court, requesting a judgement to that effect so as to guarantee the execution of any fine, restitution or compensation that may be ordered.

The Public Prosecutor may, in case of need or urgency, issue a temporary injunction barring the accused or the spouse or minor children of the accused from disposing of or administering their property. Any injunction prohibiting such administration must include the appointment of a person to administer the property to which the preservation measure relates. In all such cases the Public Prosecutor must submit the injunction order to the High Criminal Court within a maximum of seven days from the date of its issue, requesting a court injunction prohibiting such disposal or administration, failing which the temporary injunction shall be null and void.

Article 99 of the Code of Criminal Procedure specifies that in the cases indicated in the article referred to above, the High Criminal Court must render its decision, after hearing the parties concerned, within a period no greater than 15 days from the date on which the order was submitted to it. It shall decide on the period for which the temporary order referred to in article 98 is to remain in force whenever it deems that there exist grounds for deferring the examination of the request. Such decision must specify the grounds therefor and any injunction prohibiting administration must include the appointment of a person to administer the property to which the preservation measure relates, after the opinion of the Office of the Public Prosecutor has been heard.

The court shall have the right, upon the request of the Office of the Public Prosecutor, to include in its judgement any money or property belonging to the

spouse or minor children of the accused, upon their being included in the request, if there exists sufficient evidence that such money or property was derived from the crime under investigation and was obtained by them from the accused.

The person appointed as administrator shall take receipt of the property to be preserved and proceed to take an inventory thereof in the presence of the persons concerned and a representative of the Office of the Public Prosecutor or an expert appointed by the court.

The person appointed as administrator is required to preserve the property and manage it properly and to return it together with any revenue derived therefrom in accordance with the provisions of the Civil Code governing agency in matters of administration, deposits and safekeeping, all in the manner determined by a decision of the Minister of Justice.

1.5 The Kingdom of Bahrain describes at page 3 of its BMA circular (annex 3 — BC/1/2002) that money transfers effected outside the banking system should be carried out through the banking system. Could the Kingdom of Bahrain explain the application of this regulation, and provide the CTC with the method followed by the BMA to regulate and inspect entities such as the Moneychangers referred to at page 2 of the aforementioned circular. In that regard, could the Kingdom of Bahrain also provide a list of those categories, other than banks and exchange offices, referred to in the supplementary report (subparagraph 1.5 at page 4), which operate within the framework of licence requirements and under the supervision of the BMA?

BMA considers any money-transfer activity as a type of financial service which (like any other financial service) requires licensing by BMA and is subject to the Agency's supervisory authority. Thus any *hawalah* service offered in Bahrain might theoretically be provided by institutions licensed by BMA in accordance with the rules and subject to its supervisory authority. The Agency has not (and will not) license any person for the sole purpose of providing *hawalah* services. It knows, however, that some licensees (in particular money-changing establishments) may offer money-transfer systems as a complement to their principal activity. BMA permits this on condition of full compliance with the requirement that the actual transfer of funds be carried out solely through the banking system (subject to supervision) (see circular RM/1/2002).

BMA applies circular No. RM/1/2002 by carrying out periodic (unscheduled) inspections on licensees' premises, asking questions and performing the necessary verifications with a view to detecting any indication of the existence of *hawalah* activity. In the event that any sign of *hawalah* activity is found, the inspectors ask questions and carry out the necessary verifications for ensuring that the provisions of article 2 (a) of circular RM/1/2002 have been complied with. In case any violation is detected, the customary steps are taken in accordance with the standards defined in the above response to question 1.2.

It may interest the Counter-Terrorism Committee to know that on-site inspections have been conducted at all money-changing establishments over the past 20 months.

In addition to the various categories of banks, the Agency also licenses the following activities:

(i) Money-changing establishments;

(ii) Financial and foreign-sector brokers;

(iii) Investment counsellors/consultants;

(iv) Investment consultants/brokers;

(v) Insurance companies;

(vi) Insurance brokers, actuaries, adjusters and consultants.

The Bahrain Stock Exchange also comes under the supervisory authority of the Agency.

1.6 The CTC notes that the Kingdom of Bahrain has ratified the Arab Convention for the Suppression of Terrorism of 1998 by its Law No 15/1998. Could the Kingdom of Bahrain provide the CTC with the enacting legislation for the said Convention? In particular, are the offences mentioned under the said Convention established as criminal offences in the domestic law of the Kingdom of Bahrain? If not what steps have been taken to introduce those offences into domestic law since the Kingdom of Bahrain ratified the Convention in 1998?

As can be seen from an examination of the Arab Convention for the Suppression of Terrorism and the provisions of the Penal Code referred to above, the offences provided for by the Convention are criminalized and punished under the Penal Code in the manner explained in detail under item 2.1 in the supplementary report of the Kingdom of Bahrain, to which the reader is referred.

The provisions of parts two and three of the Arab Convention for the Suppression of Terrorism, i.e., articles 3 to 38, deal with measures for the prevention and suppression of terrorist offences, Arab cooperation in that area, the extradition of offenders, letters rogatory ("judicial delegation") and all questions relating to judicial cooperation and the procedures to be followed in such matters. All those provisions became directly applicable by the competent authorities in Bahrain upon the ratification of the Convention and its promulgation by Decree-Law No. 15/1998. Indeed, there is no need for the issuance of domestic legislation dealing with such measures and procedures because under article 37 of the Constitution, what is required to make such a convention enforceable is its promulgation by law, which has taken place (see attachment No. 1).

1.7 The CTC would welcome receiving a progress report concerning the draft amendment to the Penal Code referred to in the supplementary report (paragraph 2.2 at page 6).

We shall provide you, as soon as possible, with information on the most recent developments regarding the draft amendment to the Bahraini Penal Code.

1.8 Please describe the provisions and mechanisms currently in force in the Kingdom of Bahrain to provide early warning of anticipated terrorist activities. In that regard, could the Kingdom of Bahrain also provide the CTC with other available provision(s), similar to article 9 (2) of the annexed Decree-Law 4/2001, concerning the exchange of information with other States in relation to offences provided for under subparagraph 2 (c) of the resolution?

With regard to the exchange of information with other States in relation to offences provided for under subparagraph 2 (c) of Security Council resolution 1373 (2001), article 4 of the Arab Convention for the Suppression of Terrorism provides for the exchange by the contracting States of information concerning the activities and crimes of terrorist groups, their leaders and members and the places they frequent, as well as information leading to the seizure of any weapons, munitions or explosives or any devices or funds used or intended for use to commit a terrorist offence, as indicated in detail in the said article, to which the reader is referred.

It has already been mentioned that the Convention was ratified and promulgated by means of Decree-Law No. 15/1998, thus becoming enforceable legislation.

1.9 What provisions are in place to exclude asylum-seekers and other categories of persons (such as those referred to in subparagraph 2 (c) of the resolution) from the Kingdom of Bahrain?

In response to this question we refer the reader to the remarks made under 3.3 in the supplementary report to the effect that under national legislation, anyone who commits terrorist acts shall be called to account and subject to the penalties provided by the Penal Code, articles 137 and 154 of which prohibit harbouring criminals or offering them any assistance or aid in connection with accommodation, shelter, means of sustenance, etc.

Inasmuch as persons who finance, plan or support terrorist acts are deemed accomplices to the offence and, under article 2 (b) (v) of the Arab Convention, which has been ratified by the Kingdom, such offences are not regarded as political offences, even if committed for political motives, anyone who participates in the perpetration of such offences cannot be granted the right of political asylum.

1.10 The CTC takes note of article 6 of the Bahraini Penal Law of 1976 concerning the application of the Code ratione loci. In that regard, could the Kingdom of Bahrain provide the CTC with a copy of any other similar or relevant provision(s). In particular, the CTC would appreciate receiving the relevant provisions concerning nationals or aliens, who are charged with committing one or more of the terrorist offences referred to in subparagraph 2 (c) of the resolution, which are considered to be prejudicial to the security of a foreign State and who are subsequently found in the Kingdom of Bahrain. In that regard, is there any provision under the Bahraini law corresponding to article 2 (b) (v) of the Arab Convention for the Suppression of Terrorism of 1998, which was ratified by the Kingdom of Bahrain under its law No. 15/1998?

Regarding the provisions concerning nationals or aliens charged with having committed any unlawful act related to terrorism and considered a threat to the security of a foreign State while such persons are in the Kingdom of Bahrain, it

should be pointed out that, in addition to the conventions concluded or acceded to by the Kingdom on extradition of accused and convicted persons and judicial assistance, book six, chapter 2, articles 412 to 428, of the Bahraini Code of Criminal Procedure, promulgated by Decree-Law No. 46/2002, contains complete regulations on the extradition of accused and convicted persons and letters rogatory (see attachment 2).

In addition, article 9 of the Bahraini Penal Code provides that the criminal jurisdiction of the courts of Bahrain shall extend to crimes committed outside the territory of the Kingdom by aliens who are within its territory, provided that their extradition is not requested by the State concerned. In addition, the courts of Bahrain have jurisdiction in offences which are committed outside the territory of the Kingdom and affect the internal or external security of the State or relate to the imitation of public seals and emblems or the counterfeiting of currency (article 6); or which are committed by State employees or persons in charge of a public service during or because of the performance of their work (article 7); or the perpetrator of which is a principal or accomplice to an offence punishable under national law, if such person is in the Kingdom of Bahrain and the acts committed by him are punishable under the law of the country in which they occurred (article 8).

Regarding the tenor of article 2 (b) (v) of the said Convention, which provides that acts of sabotage and destruction of public property and property assigned to a public service, even if owned by another Contracting State, shall not be regarded as political offences even if committed for political motives and shall consequently be deemed terrorist offences, it can be seen that article 277 of the Penal Code provides that anyone who causes a fire endangering the life of individuals or their property, whether movable or immovable, even if that property is his own, shall be subject to imprisonment for a term not exceeding ten years.

Causing a fire in a public building or one used for public purposes, on residential premises or premises intended for such use or on a means of public transport shall be considered an aggravating circumstance.

Article 279 of the Penal Code, moreover, provides that the use of explosives to sabotage buildings or installations of public interest, those intended for the use of Government agencies, Government ministries or agencies, local administrative units, units of the armed forces, the headquarters of the representative councils, public bodies or institutions or other places intended to be frequented by the public shall be punishable by death.

According to article 52 of the Code, the minimum term of imprisonment shall be three years.

The aforementioned articles 277 and 279 of the Penal Code thus contain provisions analogous to those of article 2 (b) (v) of the Arab Convention for the Suppression of Terrorism.

Articles 409 and 410 of the Bahraini Penal Code are of interest here. Article 409 provides as follows:

> Any person who destroys or damages immovable property or renders such property unfit for use or out of service in any way shall be punished by

imprisonment for a maximum of one year or a fine of up to 100 dinars or both. If, however, the offence results in the disablement of a public utility or the paralysing of the operations of a public-interest agency or jeopardizes the life, security or health of human beings, the penalty shall be imprisonment.

If the offence is committed by a band composed of five or more persons, the penalty shall be imprisonment for up to five years.

The court may compel the offender to pay the value of the thing damaged by him.

Article 410 provides as follows:

The following shall be punished by a term of imprisonment and a fine:

1. Anyone who cuts, uproots or destroys a tree or a graft on a tree or strips off the bark in such a way as to kill it;

2. Anyone who damages a standing crop, any plant or a sown field or sows harmful plants in a field;

3. Anyone who damages an agricultural machine or implement or renders it unfit for use in any manner.

If the offence is committed by three or more persons or by two persons either of whom is carrying a weapon, the penalty shall be imprisonment for up to five years.

1.11 Please explain whether Bahraini laws apply the principle aut dedere aut judicare in relation to the offences referred to in subparagraph 2 (c) of the resolution?

In the supplementary report of the Kingdom of Bahrain it has already been mentioned, under item 2.5, that article 154 of the Penal Code prohibits the giving of shelter to any terrorist armed band and provides that anyone violating this rule shall be subject to imprisonment for life or for a lesser term. Article 137 of the same Code establishes the same penalty as for the principal offence in respect of any person who, knowing the intentions of the offender, provides him with any aid, means of subsistence, accommodation, shelter, meeting-place or other monetary or non-monetary assistance.

Article 5 of the Penal Code states that "the provisions of the present Code shall apply to all offences committed in the State of Bahrain ...".

Article 9 of the Code provides that the criminal jurisdiction of the courts of Bahrain shall extend to crimes committed outside the territory of the Kingdom by aliens who are within its territory, provided that their extradition is not requested by the State concerned.

Consequently, the courts of Bahrain are competent to try a Bahraini national for any offence committed by him, including those provided for in subparagraph 2 (c) of the Security Council resolution in question. As for aliens who commit such

offences, they shall be tried in accordance with the Bahraini Penal Code if the country concerned has not requested their extradition; otherwise they shall be extradited.

Reference is also made to article 412 of the Code of Criminal Procedure, which provides as follows:

> ... without prejudice to the provisions of international treaties and conventions having the force of law in the Kingdom of Bahrain; and the extradition of accused persons, or those against whom judgements have been rendered, to a foreign State that so requests in order to execute any foreign judgements rendered against them or to try them in criminal proceedings shall be in accordance with the following rules and, where no relevant specific provisions exist, the rules of public international law.

1.12 Could the Kingdom of Bahrain provide the CTC with the relevant provisions under its domestic law concerning international cooperation and mutual assistance in criminal matters, as well as a list of relevant bilateral or multilateral treaties concluded by the Kingdom of Bahrain with other countries?

See the attached copy of the text of articles 412 to 238 of the Code of Criminal Procedure, which contains complete regulations on the extradition of accused and convicted persons and letters rogatory. In this connection we draw particular attention to the texts of the following articles:

Article 426

If a foreign State wishes to have an investigation conducted by the judicial authorities in the Kingdom of Bahrain, letters rogatory shall be sent by the competent authority in that country by the diplomatic channel and shall be referred to the High Criminal Court.

The letters rogatory shall be accompanied by an official copy of the documents relating to the investigation of the crime, a full statement of the related conditions, the evidence in support of the charge, the applicable legal texts and a description of the steps the country wishes to have taken and the investigations it desires to have carried out.

In cases of urgency, however, the request may be granted by direct communication between the competent judicial authorities in the two States, until such time as the letters rogatory are received via the diplomatic channel.

Article 427

If the High Criminal Court agrees to the request contained in letters rogatory after ascertaining that compliance with it is not contrary to public policy in the Kingdom of Bahrain, it shall appoint a judge or the Office of the Public Prosecutor to conduct the investigation of the circumstances in accordance herewith.

If the payment of a deposit is required on account of costs, experts' fees and duties on documents presented in connection with the request, the competent authority in the requesting State shall be informed thereof in order that it may effect such deposit with the public treasury. It shall also be notified in due time of the place where the request is to be executed.

Article 428

Whenever the judicial authorities in the Kingdom of Bahrain wish to send letters rogatory to a judicial authority in another country in order to take a particular action or conduct a particular investigation, the matter shall be referred to the High Criminal Court for its opinion, unless the request emanates from the Criminal Supreme Court of Appeal, which shall then be competent."

If the Court deems the letters rogatory admissible, the Ministry of Justice shall forward the related file to the Ministry for Foreign Affairs in order that the appropriate action may be taken for the handling of the letters rogatory through the diplomatic channel.

In case of urgency, the provisions of the final paragraph of article 426 shall apply.

The list of treaties relating to mutual cooperation in criminal matters concluded or acceded to by the Kingdom is as follows:

— Extradition Agreement between the Member States of the League of Arab States, approval of accession to which was granted by Decree No. 21/1973 of the Amir;

— Agreement on Legal and Judicial Cooperation between the State of Bahrain and the Arab Republic of Egypt, which was approved by Decree-Law No. 10/1989;

— United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, of 1988, ratified by Decree-Law No. 17/1989;

— Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly on 10 December 1984, approval for accession to which was granted by Decree-Law No. 4/1998;

— Arab Convention for the Suppression of Terrorism, ratified by Decree-Law No. 15/1998;

— Arab Convention on Judicial Cooperation (Riyadh Convention), of 1983, ratified by Decree-Law No. 41/1999;

— Agreement on Judicial and Legal Cooperation in Civil, Commercial and Criminal Matters, Personal Status, the Extradition of Criminals and the Settlement of Estates between the State of Bahrain and the Syrian Arab Republic, approved by Decree-Law No. 30/2001;

— Convention on the Execution of Judgements, Letters Rogatory and Judicial Notices between the Countries of the Gulf Cooperation Council, ratified by Decree-Law No. 9/1996.

1.13 Could the Kingdom of Bahrain please provide the CTC with information concerning inter-agency cooperation, involving the police, customs and immigration authorities, with a view to preventing the movement of terrorists at its borders?

All preventive security measures have been taken to rule out the possibility of the territory of the Kingdom of Bahrain being used for committing terrorist acts or providing refuge to terrorist elements. The competent security organ carries out investigations and takes steps to ensure that no terrorist movements exist within the territory of the Kingdom and keeps a close watch on persons concerning whom there is any suspicion, making sure that they do not belong to and are not associated in any manner whatsoever with a terrorist group. The security organs have assiduously coordinated with customs and passport authorities with a view to preventing the infiltration of any elements of terrorist organizations into the Kingdom. This has been done by placing the names of persons whose names appear on the lists provided by the Counter-Terrorism Committee on computers at all the Kingdom's exit/entry points and by inspecting persons who are the object of suspicion by means of appropriate modern equipment.

1.14 Please describe the available legal provisions to control the manufacture, importation, exportation, transport, storage and sale of firearms, explosives and other sensitive materials.

Attachment 3 contains a copy of the law on explosives, weapons and munitions promulgated by Decree Law No. 16/1976, as amended by Decree-Law No. 6/1996; articles 277 to 281 of the Penal Code promulgated by Decree-Law No. 15/1976; and Decree-Law No. 21/1999 amending certain provisions of the Penal Code promulgated by Decree-Law No. 15/1976.

1.15 The CTC would welcome receiving a progress report, in relation to the studies currently undertaken by the competent authorities in the Kingdom of Bahrain, with a view to acceding to the relevant international conventions and protocols relating to terrorism, as referred to at page 9 of the supplementary report, in particular the International Convention for the Suppression of Terrorist Bombings and the International Convention for the Suppression of the Financing of Terrorism.

The Council of Ministers has studied the two conventions in question and the necessary steps are being taken for approval of the accession of the Kingdom of Bahrain to them, including the preparation of the royal decree required for referring to the Chamber of Deputies the draft laws approving accession to the said conventions.

1.16 The CTC notes that article 37 of the Bahraini Constitution is the legal basis for the approval and ratification of treaties by the Kingdom of Bahrain. The CTC also notes however that the Kingdom of Bahrain (see pages 6 and 8 of its supplementary report) has still to establish the offences provided for in the

relevant conventions as crimes in its domestic law. In that regard, could the Kingdom of Bahrain indicate to the CTC what are the provisions under its domestic law which correspond to the offences provided for under the international conventions to which the Kingdom of Bahrain is already a party?

It has been mentioned above, in the response to question 1.6, that the provisions contained in international treaties and conventions are directly applicable by the competent authorities once they have been ratified in accordance with article 37 of the Constitution, which clearly provides "... and treaties shall have force of law upon being concluded, ratified and published in the official gazette ...".

Thus, upon the completion of the constitutional procedures, the provisions of treaties and conventions are considered as enforceable law.

What is more, a look at the aforementioned Penal Code, as amended; the law on explosives, weapons and munitions referred to above; the Civil Aviation Act promulgated by Decree-Law No. 6/1995, in particular its articles 108, 110, 124, 125 and 126; Decree-Law No. 4/2001, on the prohibition and suppression of money-laundering; and the Code of Criminal Procedure, promulgated by Decree-Law No. 46/2002, clearly shows that they include the criminalization of the acts prohibited under the international conventions to which the Kingdom of Bahrain is a party.

1.17 Has the Kingdom of Bahrain any legislation in place to ensure that the persons referred to in subparagraph 2 (c) of the resolution are not granted refugee status?

The subparagraph in question calls for the denial of "safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens" to terrorists.

Chapter 1, Part VII, of the Penal Code promulgated by Decree-Law No. 15/1976 contains, in articles 43 to 48, provisions on participation in crime according to which the perpetrator of terrorist acts is considered a principal actor of the offence, inasmuch as he combines in his behaviour the elements that make up the offence (article 43), and those who finance, direct, support or otherwise facilitate the commission of the offence are considered accessories to the offence (articles 44 and 45).

Articles 137 and 154 of the Code prohibit the furnishing of any assistance, means of subsistence, accommodation, shelter or supplies to any offender, whether the act committed is an act of terrorism or not, and the procurement of weapons, equipment or machines used by such person to achieve his criminal objective. They further prohibit collecting funds for such person, providing him with a meeting place, offering him any assistance, bearing his messages, helping him to find the object of the offence or concealing or transporting the offender.

These two articles impose, for persons who commit any of those acts, penalties that range from death to hard labour for a life or for a lesser term. This signifies that granting such persons safe haven is a criminal act punishable in the manner stated above.

1.18 Is there a special law providing for extradition in the Kingdom of Bahrain? Could the Kingdom of Bahrain outline what statutory reasons exist

for refusing extradition requests under its domestic law? Could the Kingdom of Bahrain also provide the CTC with the criteria which it applies to determine whether a particular offence constitutes a political offence under its domestic law? Are any of the offences mentioned under sub-paragraph 2 (c) of the resolution considered as political offences under Bahraini domestic law? If not, the CTC would be grateful to receive a copy of the relevant domestic provisions.

Book six, chapter 2, part I, of the Code of Criminal Procedure, promulgated by Decree-Law No. 46/2002, contains provisions governing the extradition of accused and convicted persons (articles 412 to 425). A copy of that part is appended hereto (see attachment 2).

Article 415 of the said Code defines the legal grounds for refusing extradition requests. The text of the article is as follows:

Extradition is not permitted in the following cases:

A. If the person whose extradition is requested is a national of the Kingdom of Bahrain;

B. If the offence for which extradition is sought is limited to a breach of military duties or has a political character, provided, however, that none of the following shall be considered such an offence, even if politically motivated:

1. Attacks on kings or other heads of State or their spouses, ascendants or descendants;

2. Attacks on crown princes or deputy heads of State;

3. Murder or theft accompanied by the use of force directed against individuals, the authorities or means of transport and communications;

C. If the person whose extradition is requested is under investigation or on trial in the Kingdom of Bahrain for the same offence for which his extradition is requested or has already been tried for the said crime and acquitted or sentenced or if the criminal action has for any reason terminated or lapsed under the law of the Kingdom of Bahrain or the law of the State requesting extradition.

Regarding the criteria which the Kingdom applies to determine whether a particular offence constitutes a political offence, article 415 of the Code of Civil Procedure specifies the offences which are deemed political, and article 2 the Arab Convention for the Suppression of Terrorism, ratified by Decree-Law No. 15/1998, provides as follows:

(a) All cases of struggle by whatever means, including armed struggle, against foreign occupation and aggression for liberation and self-determination, in accordance with the principles of international law,

shall not be regarded as an offence. This provision shall not apply to any act prejudicing the territorial integrity of any Arab State.

(b) None of the terrorist offences indicated in the preceding article shall be regarded as a political offence. In the application of this Convention, none of the following offences shall be regarded as a political offence, even if committed for political motives:

(i) Attacks on the kings, Heads of State or rulers of the contracting States or on their spouses and families;

(ii) Attacks on crown princes, vice-presidents, prime ministers or ministers in any of the Contracting States;

(iii) Attacks on persons enjoying diplomatic immunity, including ambassadors and diplomats serving in or accredited to the Contracting States;

(iv) Premeditated murder or theft accompanied by the use of force directed against individuals, the authorities or means of transport and communications;

(v) Acts of sabotage and destruction of public property and property assigned to a public service, even if owned by another Contracting State;

(vi) The manufacture, illicit trade in or possession of weapons, munitions or explosives, or other items that may be used to commit terrorist offences.

Attachment 1

Copy of Decree-Law No. 15/1998 on ratification of the Arab Convention for the Suppression of Terrorism